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MAILED

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OFFICE OF THE DIRECTOR
TC 3600

In re Application of :
Thomas J. Marsan et al : **DECISION ON PETITION**
Application No. 09/413,728 : **TO WITHDRAW THE**
Filed: October 6, 1999 : **HOLDING OF ABANDONMENT**
For: SYSTEM AND METHOD FOR
PROCESSING RETRIEVAL REQUESTS

This is a decision on applicants Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181, filed in the United States Patent and Trademark Office on January 12, 2005.

The petition is **DISMISSED**.

A review of the file record reveals that an Office action was mailed to applicants on March 28, 2003. Applicant responded with a Notice of Appeal and Appeal fee filed August 4, 2003. However, there is no record of the Office receiving the Appeal Brief. Since the Office never received the Appeal Brief the application was properly abandoned on January 7, 2005.

Petitioner contends that the response of August 4, 2003 also contained the Appeal Brief. Petitioner offers proof that the Appeal Brief was submitted in the August 4, 2003 response by citing that the check for the Appeal fee was accepted by the Office.

A thorough review of applicants petition, and the entire application file record has been performed. While indication of the Notice of Appeal and Appeal fee having been paid are indicated in the file no Appeal Brief dated August 4, 2003 is contained in the file. Thus, without the appropriate documentary evidence (i.e., post card receipt, proper certificate of mail or facsimile transmission, proper express mail, etc. of the Appeal Brief), applicants statement of timely filing a response to the March 28, 2003 Office action is insufficient, and the holding of abandonment cannot be withdrawn.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Correspondence with respect to a Petition to Withdraw the Holding of Abandonment should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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KJD/jwk: 2/08/05